



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 4, 2004

Mr. Ronnie Glasscock, Ed. D.
North Central Texas College
1525 W. California Street
Gainesville, Texas 76240-4699

OR2004-3626

Dear Mr. Glasscock:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 200742.

North Central Texas College (the "college") received a request for information relating to selection committees that a named individual served on.¹ You claim that portions of the submitted information are excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.²

Initially, we note that the submitted information constitutes a completed investigation made of, for, or by the college. Section 552.022 of the Government Code provides that "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body" constitutes "public information . . . not excepted from required disclosure . . . unless . . . expressly confidential under other law" or excepted from disclosure under

¹We note that the college asked for and received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *see also* Open Records Decision No. 663 (1999) (discussing tolling of deadlines during period in which governmental body is awaiting clarification).

²To the extent any additional responsive information existed on the date the college received this request, we assume you have released such information to the requestor. If you have not released any such records, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

section 552.108 of the Government Code. Gov't Code § 552.022(a)(1). You do not claim that the submitted information is excepted from disclosure under section 552.108. You assert instead that some of it may be withheld pursuant to section 552.111 because it relates to policymaking deliberations. This section is a discretionary exception to disclosure that protects a governmental body's interests and is therefore not other law that makes information expressly confidential for purposes of section 552.022(a). *See* Open Records Decision No. 473 (1987) (statutory predecessor to section 552.111 may be waived); *see also* Open Records Decision No. 522 (1989) (discretionary exceptions in general). Thus, none of the submitted information may be withheld pursuant to section 552.111.

However, we note that the submitted records include information that may be protected by section 552.117 of the Government Code. Section 552.117(a)(1) excepts from public disclosure the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of governmental body who timely request that such information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is received by a governmental body. *See* Open Records Decision No. 530 at 5 (1989). Therefore, pursuant to section 552.117(a)(1), the college must withhold the above-listed information for all current or former officials or employees who elected, prior to the college's receipt of this request, to keep such information confidential. We have marked the information that must be withheld if section 552.117 applies. The remaining submitted information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be

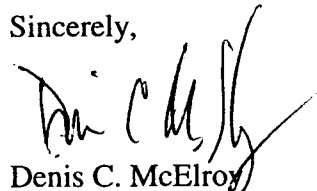
provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.-Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/lmt

Ref: ID# 200742

Enc. Submitted documents

c: Mr. Jerry Prickett
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(w/o enclosures)